

S/N 10/683,785

Response to Office Action Dated 07/22/2005

REMARKS

The Office Action dated 07/22/2005 requires Applicant to elect one of two (2) groups of claims, i.e., Group I (associated with species 1 and Fig. 2) and Group II (associated with species 2 and Fig. 3).

5 The Applicant hereby elects Group I, associated with species 1 and Fig. 2, which includes claims 1—10 and 17—24. However, this election is made with traverse for the following reasons.

M.P.E.P. § 803 states that an application may be properly restricted only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious 10 burden on the Examiner if restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a requirement should not be made unless there is an undue burden on the Examiner to examine all of the claims in a single application.

15 It would seem that the searches involved for both claim groups would substantially overlap. Fig. 2 shows that index marks 10 are read by sensor 17, and that encoding marks 11 are read by sensor 18. (See application, page 14, lines 24—26.) Fig. 3 includes the marks and sensors of Fig. 2, but additionally adds encoding marks 12 and sensor 19. (See application, page 15, lines 23—24.)

20 Thus, a search for Fig. 3 is very closely related to a search for Fig. 2, but contains an extra set of marks and an associated sensor. Since the search for art related to Fig. 2 includes a search for marks and sensors, and Fig. 3 adds only one additional set of marks and a sensor, expansion of the search to cover Fig. 3 hardly seems to burden the Patent Office.

S/N 10/683,785

Response to Office Action Dated 07/22/2005

Because of the apparent overlap in search, a serious burden would not be imposed on the Patent Office to examine all of the claims in a single application. Therefore, the restriction is improper.

For at least the above-identified reasons, the Applicant accordingly requests
5 removal of the Restriction Requirement and examination of all of the claims, i.e., claims 1—24.

The Examiner is urged to contact the undersigned if any issues remain unresolved by this Response.

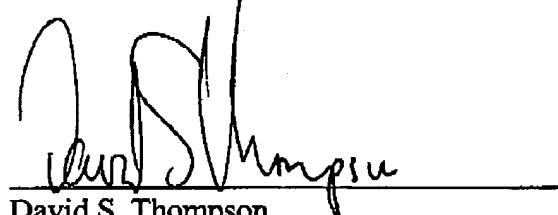
10

Respectfully Submitted,

15

Dated: 8-22-05

By:



David S. Thompson
Reg. No. 37,954
Attorney for Applicant

20

LEE & HAYES PLLC
Suite 500
421 W. Riverside Avenue
Spokane, Washington 99201
Telephone: 509-324-9256 x235
Facsimile: (509) 323-8979

25